

AMENDED IN ASSEMBLY JUNE 11, 2012

AMENDED IN SENATE APRIL 26, 2012

AMENDED IN SENATE APRIL 10, 2012

AMENDED IN SENATE MARCH 26, 2012

SENATE BILL

No. 1394

Introduced by Senator Lowenthal

February 24, 2012

An act to amend Sections 13113.7, 13113.8, 13114, and 17926 of the Health and Safety Code, relating to dwelling safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 1394, as amended, Lowenthal. Dwelling safety: carbon monoxide and smoke detectors.

(1) Existing law provides that, subject to exceptions, a smoke detector, approved and listed by the State Fire Marshal, as specified, shall be installed, in accordance with the manufacturer's instructions in each dwelling intended for human occupancy. Existing law requires the owner of each dwelling unit subject to these requirements to supply and install smoke detectors in the locations and in the manner set forth in the manufacturer's instructions, as approved by the State Fire Marshal's regulations, and further requires, in the case of apartment complexes and other multiple-dwelling complexes, that a smoke detector shall be installed in the common stairwells. Existing law requires, for all dwelling units intended for human occupancy, upon the owner's application on or after January 1, 1985, for a permit for alterations, repairs, or additions, exceeding \$1,000, that a smoke detector be installed. Existing law authorizes the State Fire Marshal to adopt regulations exempting dwellings intended for human occupancy with

fire sprinkler systems from these provisions, as specified. Existing law requires the owners of hotels, motels, lodging houses, apartment complexes, and other multiple-dwelling complexes to test and maintain smoke detectors, as specified. Existing law provides that a violation of any of these provisions is an infraction.

This bill would provide that, for all dwelling units intended for human occupancy for which a building permit is issued on or after January 1, 2014, for alterations, repairs, or additions exceeding \$1,000, the permit issuer shall not sign off on the completion of work until the permittee demonstrates that all smoke alarms required for the dwelling unit are devices *currently* approved and listed by the State Fire Marshal. The bill would provide that a fire alarm system with smoke alarms installed in accordance with the State Fire Marshal's regulations may be installed in lieu of the devices approved and listed by the State Fire Marshal described above, as specified. The bill would delete the authority of the State Fire Marshal to adopt regulations exempting dwellings intended for human occupancy with fire sprinkler systems from the above-described provisions. *The bill would also delete the requirement that the owner of each dwelling unit subject to the above-described provisions must supply and install smoke detectors in the locations and in the manner set forth in the manufacturer's regulations. Instead, the bill would require the owner of a dwelling intended for human occupancy in which one or more units is rented or leased to install additional smoke alarms as needed to ensure that smoke alarms are located in compliance with current building standards on or before January 1, 2016, as specified.* The bill would expand the definition of "dwelling units intended for human occupancy" for these purposes to include factory-built housing, as defined. The bill would delete the requirement that a smoke detector be installed in the common stairwells of apartment complexes and other multiple-dwelling complexes. The bill would, commencing January 1, 2014, require owners of single-family dwellings that are rented or leased to be responsible for testing and maintaining smoke alarms, as specified.

By expanding the scope of provisions of law, the violation of which is a crime, this bill would impose a state-mandated local program.

(2) Existing law, subject to exceptions, requires that every single-family dwelling and factory-built housing, as defined, which is sold have an operable smoke detector that is approved and listed by the State Fire Marshal and installed in accordance with the State Fire Marshal's regulations.

This bill would additionally require that for all dwelling units intended for human occupancy, upon the owner's application on or after January 1, 2014, for a permit for alterations, repairs, or additions, exceeding \$1,000, all smoke alarms required for the dwelling unit shall display the date of manufacture on the device, provide a place on the device where the date of installation can be written, incorporate a hush feature, incorporate an end-of-life feature that provides notice that the device needs to be replaced, and, if battery operated, contain a nonreplaceable, nonremovable battery that is capable of powering the smoke alarm for a minimum of 10 years.

(3) Existing law provides that no person shall market, distribute, offer for sale, or sell any fire alarm system or fire alarm device in this state unless the system or device has been approved and listed by the State Fire Marshal.

This bill would additionally provide that, commencing January 1, 2014, in order to be approved and listed by the State Fire Marshal, a smoke alarm shall display the date of manufacture on the device, provide a place on the device where the date of installation can be written, incorporate a hush feature, incorporate an end-of-life feature that provides notice that the device needs to be replaced, and, if battery operated, contain a nonreplaceable, nonremovable battery that is capable of powering the smoke alarm for a minimum of 10 years. *The bill would also require the State Fire Marshal to approve the manufacturer's instructions for each smoke alarm and to ensure that the instructions are consistent with current building standard requirements for the location and placement of smoke alarms.*

(4) Existing law requires an owner of a dwelling unit intended for human occupancy to install a carbon monoxide device in each existing dwelling, as specified. Existing law requires the installation of carbon monoxide devices in each existing single-family dwelling unit by July 1, 2011, and all other dwelling units by January 1, 2013. The State Housing Law creates standards for buildings used for human habitation. A violation of that law is a crime. Existing law requires an adopting agency or state agency that proposes new building standards to submit those standards for review by the California Building Standards Commission.

This bill would require the installation of carbon monoxide devices in all existing hotel and motel dwelling units intended for human occupancy by January 1, 2016. The bill would require the Department of Housing and Community Development to adopt building standards

to implement those provisions by July 1, 2014. Because the violation of a building standard is a crime, the bill would impose a state-mandated local program.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 13113.7 of the Health and Safety Code
2 is amended to read:

3 13113.7. (a) (1) Except as otherwise provided in this section,
4 a smoke~~alarm~~ *alarms*, approved and listed by the State Fire
5 Marshal pursuant to Section 13114 at the time of installation, shall
6 be installed, in accordance with the manufacturer's instructions in
7 each dwelling intended for human occupancy ~~on or after January~~
8 ~~1, 1987~~.

9 (2) For all dwelling units intended for human occupancy for
10 which a building permit is issued on or after January 1, 2014, for
11 alterations, repairs, or additions exceeding one thousand dollars
12 (\$1,000), the permit issuer shall not sign off on the completion of
13 work until the permittee demonstrates that all smoke alarms
14 required for the dwelling unit are devices *currently* approved and
15 listed by the State Fire Marshal pursuant to Section 13114.

16 (3) However, if any local rule, regulation, or ordinance, adopted
17 prior to January 1, 1987, requires installation in a dwelling unit
18 intended for human occupancy of smoke alarms which receive
19 their power from the electrical system of the building and requires
20 compliance with the local rule, regulation, or ordinance at a date
21 subsequent to the dates specified in this section, the compliance
22 date specified in the rule, regulation, or ordinance shall, but only
23 with respect to the dwelling units specified in this section, take
24 precedence over the date specified in this section.

25 (4) Unless prohibited by local rules, regulations, or ordinances,
26 a battery-operated smoke alarm, which otherwise met the standards

1 adopted pursuant to Section 13114 for smoke alarms at the time
2 of installation, satisfies the requirements of this section.

3 (5) A fire alarm system with smoke alarms installed in
4 accordance with the State Fire Marshal's regulations may be
5 installed in lieu of smoke alarms required pursuant to paragraph
6 (1) or (2).

7 (b) "Dwelling units intended for human occupancy," as used in
8 this section, includes a one- or two-unit dwelling, lodging house,
9 apartment complex, hotel, motel, condominium, stock cooperative,
10 time-share project, or dwelling unit of a multiple-unit dwelling
11 complex, or factory-built housing as defined in Section 19971. For
12 the purpose of this part, "dwelling units intended for human
13 occupancy" does not include manufactured homes as defined in
14 Section 18007, mobilehomes as defined in Section 18008, and
15 commercial coaches as defined in Section 18001.8.

16 (c) ~~The owner of each dwelling unit subject to this section shall~~
17 ~~supply and install smoke alarms required by this section in the~~
18 ~~locations and in the manner set forth in the manufacturer's~~
19 ~~instructions, as approved by the State Fire Marshal's regulations.~~
20 All fire alarm warning systems supplemental to the smoke alarm
21 shall also be listed by the State Fire Marshal.

22 (d) A high-rise structure, as defined in subdivision (b) of Section
23 13210 and regulated by Chapter 3 (commencing with Section
24 13210), and which is used for purposes other than as dwelling
25 units intended for human occupancy, is exempt from the
26 requirements of this section.

27 (e) (1) The owner shall be responsible for testing and
28 maintaining alarms in hotels, motels, lodging houses, apartment
29 complexes, and other multiple-dwelling complexes in which units
30 are neither rented nor leased.

31 (2) The owner of a hotel, motel, lodging house, apartment
32 complex, or other multiple-dwelling complex in which units are
33 rented or leased, and commencing January 1, 2014, the owner of
34 a single-family dwelling that is rented or leased, shall be
35 responsible for testing and maintaining alarms required by this
36 section as follows:

37 (A) An owner or the owner's agent may enter any dwelling unit,
38 efficiency dwelling unit, guest room, and suite owned by the owner
39 for the purpose of installing, repairing, testing, and maintaining
40 single station smoke alarms required by this section. Except in

1 cases of emergency, the owner or owner's agent shall give the
2 tenants of each such unit, room, or suite reasonable notice in
3 writing of the intention to enter and shall enter only during normal
4 business hours. Twenty-four hours shall be presumed to be
5 reasonable notice in absence of evidence to the contrary.

6 (B) At the time that a new tenancy is created, the owner shall
7 ensure that smoke alarms are operable ~~and located in compliance~~
8 ~~with current building code standards~~. The tenant shall be
9 responsible for notifying the manager or owner if the tenant
10 becomes aware of an inoperable smoke alarm within his or her
11 unit. The owner or authorized agent shall correct any reported
12 deficiencies in the smoke alarm and shall not be in violation of
13 this section for a deficient smoke alarm when he or she has not
14 received notice of the deficiency.

15 (3) *On or before January 1, 2016, the owner of a dwelling unit*
16 *intended for human occupancy in which one or more units is rented*
17 *or leased shall install additional smoke alarms, as needed, to*
18 *ensure that smoke alarms are located in compliance with current*
19 *building standards. Existing alarms need not be replaced unless*
20 *the alarm is inoperable. New smoke alarms installed in compliance*
21 *with current building standards may be battery operated provided*
22 *the alarms have been approved by the State Fire Marshal for sale*
23 *in the state.*

24 (f) A violation of this section is an infraction punishable by a
25 maximum fine of two hundred dollars (\$200) for each offense.

26 (g) This section shall not affect any rights which the parties may
27 have under any other provision of law because of the presence or
28 absence of a smoke alarm.

29 SEC. 2. Section 13113.8 of the Health and Safety Code is
30 amended to read:

31 13113.8. (a) On and after January 1, 1986, every single-family
32 dwelling and factory-built housing, as defined in Section 19971,
33 which is sold shall have an operable smoke alarm. At the time of
34 installation, the alarm shall be approved and listed by the State
35 Fire Marshal and installed in accordance with the State Fire
36 Marshal's regulations. Unless prohibited by local rules, regulations,
37 or ordinances, a battery-operated smoke alarm that met the
38 standards adopted pursuant to Section 13114 for smoke alarms at
39 the time of installation shall be deemed to satisfy the requirements
40 of this section.

1 (b) On and after January 1, 1986, the transferor of any real
2 property containing a single-family dwelling, as described in
3 subdivision (a), whether the transfer is made by sale, exchange,
4 or real property sales contract, as defined in Section 2985 of the
5 Civil Code, shall deliver to the transferee a written statement
6 indicating that the transferor is in compliance with this section.
7 The disclosure statement shall be either included in the receipt for
8 deposit in a real estate transaction, an addendum attached thereto,
9 or a separate document.

10 (c) The transferor shall deliver the statement referred to in
11 subdivision (b) as soon as practicable before the transfer of title
12 in the case of a sale or exchange, or prior to execution of the
13 contract where the transfer is by a real property sales contract, as
14 defined in Section 2985. For purposes of this subdivision,
15 “delivery” means delivery in person or by mail to the transferee
16 or transferor, or to any person authorized to act for him or her in
17 the transaction, or to additional transferees who have requested
18 delivery from the transferor in writing. Delivery to the spouse of
19 a transferee or transferor shall be deemed delivery to a transferee
20 or transferor, unless the contract states otherwise.

21 (d) This section does not apply to any of the following:

22 (1) Transfers which are required to be preceded by the furnishing
23 to a prospective transferee of a copy of a public report pursuant to
24 Section 11018.1 of the Business and Professions Code.

25 (2) Transfers pursuant to court order, including, but not limited
26 to, transfers ordered by a probate court in the administration of an
27 estate, transfers pursuant to a writ of execution, transfers by a
28 trustee in bankruptcy, transfers by eminent domain, or transfers
29 resulting from a decree for specific performance.

30 (3) Transfers to a mortgagee by a mortgagor in default, transfers
31 to a beneficiary of a deed of trust by a trustor in default, transfers
32 by any foreclosure sale after default, transfers by any foreclosure
33 sale after default in an obligation secured by a mortgage, or
34 transfers by a sale under a power of sale after a default in an
35 obligation secured by a deed of trust or secured by any other
36 instrument containing a power of sale.

37 (4) Transfers by a fiduciary in the course of the administration
38 of a decedent’s estate, guardianship, conservatorship, or trust.

39 (5) Transfers from one coowner to one or more coowners.

1 (6) Transfers made to a spouse, or to a person or persons in the
2 lineal line of consanguinity of one or more of the transferors.

3 (7) Transfers between spouses resulting from a decree of
4 dissolution of a marriage, from a decree of legal separation, or
5 from a property settlement agreement incidental to either of those
6 decrees.

7 (8) Transfers by the Controller in the course of administering
8 the Unclaimed Property Law provided for in Chapter 7
9 (commencing with Section 1500) of Title 10 of Part 3 of the Code
10 of Civil Procedure.

11 (9) Transfers under the provisions of Chapter 7 (commencing
12 with Section 3691) or Chapter 8 (commencing with Section 3771)
13 of Part 6 of Division 1 of the Revenue and Taxation Code.

14 (e) No liability shall arise, nor any action be brought or
15 maintained against, any agent of any party to a transfer of title,
16 including any person or entity acting in the capacity of an escrow,
17 for any error, inaccuracy, or omission relating to the disclosure
18 required to be made by a transferor pursuant to this section.
19 However, this subdivision does not apply to a licensee, as defined
20 in Section 10011 of the Business and Professions Code, where the
21 licensee participates in the making of the disclosure required to
22 be made pursuant to this section with actual knowledge of the
23 falsity of the disclosure.

24 (f) Except as otherwise provided in this section, this section
25 shall not be deemed to create or imply a duty upon a licensee, as
26 defined in Section 10011 of the Business and Professions Code,
27 or upon any agent of any party to a transfer of title, including any
28 person or entity acting in the capacity of an escrow, to monitor or
29 ensure compliance with this section.

30 (g) No transfer of title shall be invalidated on the basis of a
31 failure to comply with this section, and the exclusive remedy for
32 the failure to comply with this section is an award of actual
33 damages not to exceed one hundred dollars (\$100), exclusive of
34 any court costs and attorney's fees.

35 (h) Local ordinances requiring smoke alarms in single-family
36 dwellings may be enacted or amended. However, the ordinances
37 shall satisfy the minimum requirements of this section.

38 (i) For the purposes of this section, "single-family dwelling"
39 includes a one- or two-unit dwelling, but does not include a
40 manufactured home as defined in Section 18007, a mobilehome

1 as defined in Section 18008, or a commercial coach as defined in
2 Section 18001.8.

3 SEC. 3. Section 13114 of the Health and Safety Code is
4 amended to read:

5 13114. (a) The State Fire Marshal, with the advice of the State
6 Board of Fire Services, shall adopt regulations and standards as
7 he or she may determine to be necessary to control the quality and
8 installation of fire alarm systems and fire alarm devices marketed,
9 distributed, offered for sale, or sold in this state.

10 (b) (1) No person shall market, distribute, offer for sale, or sell
11 any fire alarm system or fire alarm device in this state unless the
12 system or device has been approved and listed by the State Fire
13 Marshal.

14 (2) Commencing January 1, 2014, in order to be approved and
15 listed by the State Fire Marshal, a smoke alarm shall display the
16 date of manufacture on the device, provide a place on the device
17 where the date of installation can be written, incorporate a hush
18 feature, incorporate an end-of-life feature that provides notice that
19 the device needs to be replaced, and, if battery operated, contain
20 a nonreplaceable, nonremovable battery that is capable of powering
21 the smoke alarm for a minimum of 10 years.

22 (3) *The State Fire Marshal shall approve the manufacturer's*
23 *instructions for each smoke alarm and shall ensure that the*
24 *instructions are consistent with current building standard*
25 *requirements for the location and placement of smoke alarms.*

26 (c) (1) The State Fire Marshal shall convene a working group
27 to address the issues specified in paragraph (2), made up of the
28 following representatives to the extent they are willing to
29 participate:

30 (A) Representatives of at least four manufacturers of fire alarm
31 devices or systems whose products are currently listed pursuant
32 to this section and whose names are provided to the State Fire
33 Marshal as manufacturer representatives by the National Electrical
34 Manufacturers Association.

35 (B) A fire protection engineer who is not associated with the
36 State Fire Marshal's Office.

37 (C) Staff from the State Fire Marshal's Office for consultation
38 purposes, as determined by the State Fire Marshal.

39 (D) Representatives of four local fire marshals with experience
40 in building plan checking and code compliance.

1 (E) A representative of a nationally recognized testing
2 laboratory.

3 (F) The State Fire Marshal or his or her designee.

4 (2) (A) Giving due consideration to public safety issues, the
5 working group shall develop a process for listing of fire alarms
6 and safety devices by the State Fire Marshal. Listing shall be
7 approved upon receipt of certification of the fire alarm by a State
8 Fire Marshal approved nationally recognized testing laboratory.
9 All appropriate fees associated with the building materials listing
10 application must be received by the Office of the California State
11 Fire Marshal prior to approval.

12 (B) Implementation of the process developed pursuant to
13 subparagraph (A) of paragraph (2) of subdivision (c) shall be
14 through administrative action or legislative action in the regular
15 session commencing December 4, 2006, and shall go into effect
16 no later than January 1, 2008.

17 (3) (A) The State Fire Marshal shall appoint the members of
18 the working group no later than October 1, 2006, and shall convene
19 the first meeting of the working group no later than November 1,
20 2006.

21 (B) The State Fire Marshal shall approve the revised process
22 no later than March 30, 2007.

23 (C) Nothing in this section shall preclude the State Fire Marshal
24 and ~~members~~ *representatives of the manufacturer* of the fire alarm
25 safety devices from convening in an ad hoc working group in
26 advance of the effective date of this statute.

27 SEC. 4. Section 17926 of the Health and Safety Code is
28 amended to read:

29 17926. (a) An owner of a dwelling unit intended for human
30 occupancy shall install a carbon monoxide device, approved and
31 listed by the State Fire Marshal pursuant to Section 13263, in each
32 existing dwelling unit having a fossil fuel burning heater or
33 appliance, fireplace, or an attached garage, within the earliest
34 applicable time period as follows:

35 (1) For all existing single-family dwelling units intended for
36 human occupancy on or before July 1, 2011.

37 (2) For all existing hotel and motel dwelling units intended for
38 human occupancy on or before January 1, 2016.

39 (3) For all other existing dwelling units intended for human
40 occupancy on or before January 1, 2013.

1 (b) With respect to the number and placement of carbon
2 monoxide devices, an owner shall install the devices in a manner
3 consistent with building standards applicable to new construction
4 for the relevant type of occupancy or with the manufacturer's
5 instructions, if it is technically feasible to do so.

6 (c) (1) Notwithstanding Section 17995, and except as provided
7 in paragraph (2), a violation of this section is an infraction
8 punishable by a maximum fine of two hundred dollars (\$200) for
9 each offense.

10 (2) Notwithstanding paragraph (1), a property owner shall
11 receive a 30-day notice to correct. If an owner receiving notice
12 fails to correct within that time period, the owner may be assessed
13 the fine pursuant to paragraph (2).

14 (d) No transfer of title shall be invalidated on the basis of a
15 failure to comply with this section, and the exclusive remedy for
16 the failure to comply with this section is an award of actual
17 damages not to exceed one hundred dollars (\$100), exclusive of
18 any court costs and attorney's fees. This subdivision is not intended
19 to affect any duties, rights, or remedies otherwise available at law.

20 (e) A local ordinance requiring carbon monoxide devices may
21 be enacted or amended if the ordinance is consistent with this
22 chapter.

23 (f) On or before July 1, 2014, the department shall submit for
24 adoption and approval pursuant to Chapter 4 (commencing with
25 Section 18935) of Part 2.5, building standards for the installation
26 of carbon monoxide detectors in hotel and motel dwelling units
27 intended for human occupancy. In developing these standards, the
28 department shall do both of the following:

29 (1) Convene and consult a stakeholder group that includes
30 members with expertise in multifamily dwellings, lodging,
31 maintenance, and construction.

32 (2) Review and consider the most current national codes and
33 standards available related to the installation of carbon monoxide
34 detection.

35 (g) For purposes of this section and Section 17926.1, "dwelling
36 unit intended for human occupancy" has the same meaning as that
37 term is defined in Section 13262.

38 SEC. 5. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

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